

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:      Bray Station Partners      )  
              Dist. C02, Block 44T, Parcels D00038, D00042 & D00043      ) Shelby County  
              Residential Property      )  
              Tax Year 2006      )

### INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

	<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
Parcel D00038	\$367,400	\$ -0-	\$367,400	\$91,850
Parcel D00042	\$311,700	\$ -0-	\$311,700	\$77,925
Parcel D00043	\$300,000	\$ -0-	\$300,000	\$75,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on July 10, 2007 in Memphis, Tennessee. In attendance at the hearing were Frank Fitzgerald, the appellant, and Shelby County Property Assessor's representative Jonathan Jackson.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of three building lots located in the duBray Subdivision in Collierville, Tennessee. The subdivision is a gated community comprised of 26 building sites in the duBray Place section and 19 building sites in the duBray Manor section. Homes must contain a minimum of 3,500 square feet in duBray Place and 6,000 square feet in duBray Manor. Lots in duBray Place typically range in size from approximately ¼ to ½ acre. Lots in duBray Manor contain anywhere from 1.73 to 3.32 acres.

Subject lots constitute three of the remaining five lots for sale in duBray Manor. The size of subject lots in acres is as follows:

<u>Parcel D00038</u>	<u>Parcel D00042</u>	<u>Parcel D00043</u>
3.32	2.03	1.86

The taxpayer contended that parcels D00038, D00042 and D00043 should be valued at \$300,000, \$290,000 and \$275,000 respectively. In support of this position, the taxpayer's representative, Frank Fitzgerald, introduced into evidence twelve sales of lots in duBray Manor that have sold within the last year.<sup>1</sup> Mr. Fitzgerald testified that many of the sales included allowances for landscaping or grading ranging from \$15,000 to \$40,000 as indicated in the settlement statements included in exhibit #1. According to Mr. Fitzgerald,

<sup>1</sup> Eight of the sales occurred I 2005 and four sales took place in 2006.



the partnership preferred to grant such concessions rather than discount the list prices of the lots.

Mr. Fitzgerald testified that in his opinion the lots which have already been sold in duBray Manor are superior to subject lots for various reasons. For example, parcels D00038 and D00042 adjoin a less valuable older neighborhood. The previously sold lake lots, in contrast, either do not border the subdivision or have more privacy.

The taxpayer also took issue with Mr. Jackson's methodology for two reasons. First, Mr. Fitzgerald argued that buyers of subject lots do not focus strictly on size. Thus, Mr. Fitzgerald asserted that utilizing a per acre unit of comparison inflates the value of larger lots. Second, Mr. Fitzgerald maintained that the allowances for landscaping and grading should be deducted from the recorded sales prices to arrive at the cash equivalent sales prices.

The assessor contended that subject parcels should remain appraised at their current values. In support of this position, Mr. Jackson introduced into evidence a spreadsheet summarizing 14 sales in duBray Manor. Mr. Jackson asserted that the comparable sales support the current appraisals of subject parcels even after considering the discounts for landscaping and grading.<sup>2</sup> Mr. Jackson maintained that the value of subject lots directly correlates to their size. Thus, Mr. Jackson utilized acreage as the relevant unit of comparison with no adjustments for size.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that parcels D00038, D00042 and D00043 should be valued at \$330,000, \$290,000 and \$275,000 respectively.

The administrative judge finds that Mr. Fitzgerald's analysis should initially receive greatest weight. The administrative judge finds that Mr. Fitzgerald focused on the strengths and weaknesses of each lot whereas Mr. Jackson's analysis was more analogous to a mass appraisal. For example, parcel D00042 unquestionably experiences a diminution in value because of both easements and its relative location vis-à-vis the adjoining neighborhood. Similarly, the administrative judge finds that a potential buyer of subject lots is concerned first and foremost with the utility and desirability of a particular lot as a building site. The administrative judge finds that although a potential buyer might very well pay more for a

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<sup>2</sup> Mr. Jackson's initial analysis did not consider such discounts. Mr. Jackson revised his analysis during the hearing.



larger lot all other things equal, the residual acreage will not typically command the same amount on a per acre basis as the primary building site.

With respect to parcels D00042 and D00043, the administrative judge finds that Mr. Fitzgerald's contentions of value were more thoroughly substantiated and should be adopted as the basis of valuation. Accordingly, the administrative judge finds that parcels D00042 and D00043 should be appraised at \$290,000 and \$275,000 respectively.

With respect to parcel D00038, the administrative judge finds the preponderance of the evidence supports adoption of a value of \$330,000 as of January 1, 2006, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that the sales of parcels D00039 and D00041 occurred long after January 1, 2006 and are therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

The administrative judge finds that the October 24, 2005 sale of parcel D00040 for \$340,000 constitutes the only comparable sale of a lake lot prior to January 1, 2006. The administrative judge finds that sale included a \$40,000 grading allowance resulting in a net price of \$300,000. The administrative judge finds nothing in the record to indicate such an allowance will be necessary for parcel D00038. On the other hand, parcel D00038 will almost certainly experience a diminution in value due to the fact it borders an older subdivision. The administrative judge finds this loss in value will presumably be partially offset by the fact parcel D00038 contains 3.32 acres in comparison to parcel D00040's 2.48 acres.

#### ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2006:

	<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
Parcel D00038	\$330,000	\$ -0-	\$330,000	\$82,500
Parcel D00042	\$290,000	\$ -0-	\$290,000	\$72,500
Parcel D00043	\$275,000	\$ -0-	\$275,000	\$68,750

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

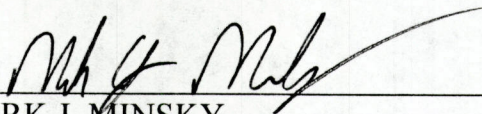
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:



1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 31st day of July, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Frank L. Fitzgerald  
Tameaka Stanton-Riley, Appeals Manager